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SUBJECT: PROPOSED NATIONAL SECURITY LAW HARKS BACK TO
DARKER DAYS

Classified By: Charge d'Affaires Robert Ford for reasons 1.4 (b) and (d).).

¶1. (C) SUMMARY: The Iraqi Council of Representatives (CoR) has begun consideration of a draft law on the Ministry of State for National Security Affairs (MSNSA) which would be charged with counter-terrorism, counter-intelligence, fighting organized crimes, border protection, and monitoring groups hostile to the State. The draft law, which has had only its first reading in Parliament, has problematic elements such as a lack of oversight of the Ministry by any Iraqi governing institution except the Prime Minister's office. According to this first text, the Ministry would pursue undefined "political crimes," and track the activities of political parties, NGOs, foreign companies and apparently religious figures. The text may well be changed given the fluidity of Iraqi thinking now about the country's future security apparatus architecture. However, the draft law also shows signs that some Iraqi leaders are reverting to old, pre-2003 liberation norms of thinking about Iraqi intelligence agencies. END SUMMARY.

Background

¶2. (SBU) On July 11, 2009 the CoR held the first reading for the draft law on the MSNSA. Originally submitted in 2006, the draft languished until controversies surrounding the possible dissolution of the CPA-era National Security Council and removal of National Security Advisor Mowaffaq al Rubaie raised it again. Some MPs thought the principle of a coordinating agency was a good idea, and the CoR offered a "Proposed Law on the National Security Council," which would have created a limited coordinating body. Drafted by members of the former Prime Minister Ayad Allawi's Iraqi National List (Iraqiyya) and signed by a diverse group of MPs that included Sadrists, Dawa Tanzim and Tawafuq members, the CoR's NSC proposal led to the Cabinet's resurrection of the MSNSA, according to a statement by Minister of State Safa al-Safi to the COR earlier this month.

The Organization

¶3. (SBU) The MSNSA is directed by a Minister, who reports directly to the Prime Minister as the Commander-in-Chief of the Armed Forces. As outlined in the draft law, the MSNSA would be charged with counter-terrorism, stopping terrorist financing, weapons and narcotics interdiction, counter-intelligence, fighting organized crimes, border protection, and "monitoring groups that are hostile to the State." It also would create a central security database to collect and analyze information. While it would play a coordinating role among different security ministries, it would have six directorates and 16 departments divided into numerous sections. (Comment: Ministries of State usually have only a dozen staff and small office space. End Comment.)

Areas of Concern

¶4. (SBU) The draft law does not provide any procedures to ensure that human rights and liberties guaranteed by the constitution are protected. The draft law does not provide for any heightened or subject-matter specific oversight from the CoR, although the CoR has constitutional authority to confirm and question the minister. The draft law also does not state that the ministry would be under civilian control, as required of the Iraqi armed forces and security services under Article 9(A) of the Constitution.

¶5. (SBU) There are other problematic elements in the draft law. Article 3 (Eighth) of the draft law charges the MSNSA with the "pursuit of political crimes," but does not define this term. Article 3 (Ninth) charges the ministry with "encouraging citizens' cooperation with security agencies" Q "encouraging citizens' cooperation with security agencies" and "monitoring media outlets that incite to terrorism and crime." Among the various "departments" is a Political Security Department, which includes subsections for "monitoring political parties and movements, foreign companies, civil society organizations, and international organizations." The Anti-Terrorism Department also includes a "Religious Affairs Section."

Comment:

¶6. (C) The draft MSNSA law has had only one reading, and it may well move slowly through the CoR, whose work pace is often glacial. If the law moves forward, the debate during the second reading period will offer better insights into Iraqi attitudes about the problematic portions of the text.

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The fact that an unusual coalition of Iraqiyya, Dawa Tanzim, Sadrists, and Tawafuq seek a more limited coordinating body shows the disagreement among Iraqi political leaders about what a security apparatus should look like. Indeed, there are currently five draft laws floating around the CoR that would form three "national security" organs. (The third agency for which there is a draft law is the Counter-Terrorism Bureau.) We see a great deal of fluidity in the thinking about how to structure Iraq's future intelligence architecture as well as signs of reversion to old, pre-liberation norms of Iraqi thinking about what intelligence agencies should do.

FORD